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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/646,222	08/22/2003	Nelson H. Oliver	2003P08477US	1397
7590	09/22/2005		EXAMINER	
Siemens Corporation Intellectual Property Department 170 Wood Avenue South Iselin, NJ 08830			JAWORSKI, FRANCIS J	
			ART UNIT	PAPER NUMBER
			3737	

DATE MAILED: 09/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Tak

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/646,222	OLIVER ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Jaworski Francis J.	3737	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 08 July 2005.  
 2a) This action is FINAL.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-28 is/are pending in the application.  
 4a) Of the above claim(s) 22-28 is/are withdrawn from consideration.  
 5) Claim(s) 18-21 is/are allowed.  
 6) Claim(s) 1 and 3-17 is/are rejected.  
 7) Claim(s) 2 is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 22 August 2003 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>8-22-03</u> .	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____

## DETAILED ACTION

Claims 1-21 are present for examination in this case, having been elected in the response filed on July 8, 2005; claims 22-28 stand withdrawn as directed to a different invention. Applicants' arguments were not considered to be persuasive since the inventions fall into different statutory classes with widely varying areas of search.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 6-11, 13-14, 16-17 are rejected under 35 USC U.S.C. 102(b) as being anticipated by Horner (US4528652) which teaches an ultrasound transducer including a backing comprising a physical mixture of lead oxide and/or microspheres in combination with silicone rubber brought into contact but unbonded by gas evacuation of residual air, and including 1:1 mix ratios (see table).

Claims 1, 9-10 and 12-14 are rejected under 35 USC 102(b) as being anticipated by McElroy et al (US3794866) since col. 6 lines 31 – 36 teaches that the backing block may comprise metal fibers with (incompatible) residual air voids whereupon the block would inherently have the stiffness of the fibers.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 3-4 are under 35 U.S.C. 103(a) as being unpatentable over Horner as applied against claim 1 above, further in view of Trzaskos (US4382201) since the latter teaches in col. 1 lines 35-51 that degassed polymer-metal composites can provide a desirable high attenuation as ultrasound backing members when the contributing particles are 10 microns or less.

Claims 5 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Horner as applied to claims 1, 13 above, and further in view of Saito et al (US4571520) since the latter teaches that both rubber and polymer plastic microballoons may be used as matrix and filler for forming such a backing layer as called for in Horner.

***Allowable Subject Matter***

Claim 2 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 18-21 are allowable over the prior art.

Any inquiry concerning this communication should be directed to Jaworski Francis J. at telephone number 571-272-4738.

FJJ:fjj

09152005



Francis J. Jaworski  
Primary Examiner